

1 BILL NO. S-84-11-14

2 SPECIAL ORDINANCE NO. S- 152-84

3 AN ORDINANCE approving Contract  
4 Number 8408, Ley Road - Speedway  
5 Drive Water Main Connection, by  
6 and between the City of Fort Wayne,  
7 Indiana and Land Excavating, Inc.,  
8 in connection with the Board of  
9 Public Works and Safety.

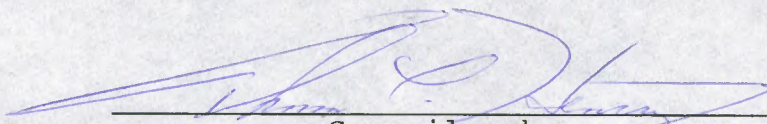
10 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF  
11 THE CITY OF FORT WAYNE, INDIANA:

12 SECTION 1. That the annexed Contract Number 8408, Ley  
13 Road - Speedway Drive 8" Water Main Connection, by and between  
14 the City of Fort Wayne and Land Excavating, Inc., in connection  
15 with the Board of Public Works, for:

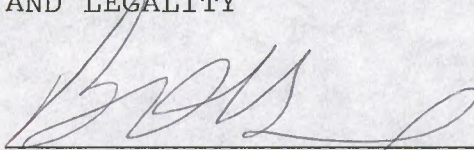
16 the furnishing of all material,  
17 labor, equipment, tools, power,  
18 transportation, miscellaneous  
19 equipment, etc., necessary to  
20 install a 12" water main to  
21 service the Ley Road - Speedway  
22 Drive 8" water main connection;

23 involving a Contract price of Twenty-Two Thousand Six Hundred and  
24 35/100 Dollars (\$22,600.35), all as more particularly set forth  
25 in said Contract, and which is on file with the Office of the  
26 Board of Public Works and Safety, and is by reference incorporated  
27 herein, made a part hereof and is hereby in all things ratified,  
28 confirmed and approved.

29 SECTION 2. That this Ordinance shall be in full force  
30 and effect from and after its passage and any and all necessary  
31 approval by the Mayor.

32   
Councilmember

APPROVED AS TO FORM  
AND LEGALITY

  
Bruce O. Boxberger, City Attorney



Read the first time in full and on motion by Henry,  
seconded by Redd, and duly adopted, read the second time  
by title and referred to the Committee City of Fort Wayne (and the City  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .M., E.S.

DATE: 11-13-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry,  
seconded by Redd, and duly adopted, placed on its  
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 11-27-84

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort  
Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (~~GENERAL~~)

(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 1-152-84

on the 27th day of November, 1984,

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Ray A. Ebert  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the 28th day of November, 1984,  
at the hour of 11:30 o'clock A. .M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29th day of November,  
1984, at the hour of 11:00 o'clock A. .M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR., MAYOR



74-134-17 *Original*  
10-31-84

CONTRACT NO. 8408

BOARD ORDER NO. 113-84

WORK ORDER NO. 63681

THIS CONTRACT made and entered into in triplicate this 31<sup>st</sup> day of October, 1984, by and between Land Excavating Inc., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works, herein called OWNER,

WITNESSETH, that the Contractor and the Owner, for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of:

Ley Road - Speedway Drive 8" Water Main Connection

all according to Fort Wayne Water Utility Drawing No. Y-10587, Sheets 1 thru 3, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the sum of twenty-two thousand six hundred dollars and thirty-five cents (\$22,600.35). In the event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

ARTICLE 3. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by Owner upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Water Engineering Department less the aggregate of previous payments, will be paid by Owner to the Contractor.

WEBIDD  
JOB B/remove 11/18/84



#### ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Water Engineering Department to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted. Thereupon the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

#### ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Section 14 of the Compensation Act (I.C. 22-3-2-1).

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Sub-contractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

#### ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bound by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978. The successful bidder, at the time the Completion Affidavit is filed, shall also file a Manpower Utilization Report for this project.

#### ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Chapter 319 of the Acts of the General Assembly of the State of Indiana, of 1935.



#### ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- a. Advertisement for Bids, for Contract No. 8408.
- b. Instructions to Bidders for Contract No. 8408.
- c. Contractor's Proposal Dated October 10, 1984.
- d. Fort Wayne Water Utility Engineering Department Drawing No. Y-10587 pages 1 thru 3.
- e. Supplemental Specification for Contract No. 8408.
- f. Detailed Specifications and Conditions for the Installation of Transmission and Distribution Mains of the Fort Wayne Water Utility.
- g. Construction Standards and Water Main and Water Service Materials Standards of the Fort Wayne Water Utility, Engineering Department, latest revision, except as modified in the Supplemental Specifications.
- h. Workman's Compensation Act (I.C. 22-3-2-1).
- i. Non Discrimination of Labor, General Ordinance No. G-34-78 (as amended).
- j. Prevailing Wage Scale.
- k. Performance and Guaranty Bond.
- l. Minority/Female Employment Requirements Option

#### ARTICLE 9. GUARANTEE OF WORKMANSHIP

At the time of execution of this contract, the Contractor shall furnish a Performance and Guaranty Bond in favor of the City of Fort Wayne in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the water main by the City.

#### ARTICLE 10. INDEMNITY

Contractor shall furnish to Owner, within ten (10) days of the date hereof, a certificate from an insurer acceptable to Owner showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to Owner.

#### ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the Owner, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

#### ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified in the contract within 45 consecutive calendar days after having been ordered by the Owner to commence work under this contract.



ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

LAND EXCAVATING INC.

BY: Jack L. Braun

Jack L. Braun, President

BY: Joy D. Braun

Joy D. Braun, Secretary

CITY OF FORT WAYNE, INDIANA

BY: Win Moses, Jr.

Win Moses, Jr., Mayor

BOARD OF PUBLIC WORKS AND SAFETY

David J. Kiester  
David J. Kiester,

Director of Public Works

Cosette R. Simon  
Cosette R. Simon

Director of Administration and Finance

ATTEST:

Helen V. Gochenour  
Helen V. Gochenour, Clerk

Lawrence D. Consalvos  
Lawrence D. Consalvos

Director of Public Safety

APPROVED AS TO FORM AND LEGALITY:

R. Snuffer  
ASSOCIATE CITY ATTORNEY

Approved by the Common Council of the City of Fort Wayne on \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Special Ordinance No. \_\_\_\_\_.



# RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

## PERFORMANCE BOND

The American Institute of Architects, AIA Document A311, February 1970 Edition.

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

LAND EXCAVATING, INC.  
P. O. Box 192, LaOtto, IN 46763

as Principal, hereinafter called Contractor, and, RELIANCE INSURANCE COMPANY, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner)

BOARD OF PUBLIC WORKS  
CITY OF FORT WAYNE  
City-County Building, Fort Wayne, IN 46802

as Obligee, hereinafter called Owner, in the amount of

Twenty Two Thousand Six Hundred &amp; 37/100

Dollars (\$ 22,600.37 ), for the payment whereof Contractor

and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated October 31, 1984, entered into a contract with Owner for  
Ley Road - Speedway Drive, 8 inch Watermain Contract 8408

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or  
2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this Twenty Second

day of October

19 84

X Jay Braun  
(Witness)

Karen Carter  
(Witness)

Performance Bond  
Revised to February, 1970

LAND EXCAVATING, INC. (Seal)  
(Principal)  
By: x Jacob Braun  
PRESIDENT (Title)  
RELIANCE INSURANCE COMPANY  
By: Walter E. Manske  
(Title)  
Walter E. Manske - Attorney-in-Fact



# RELIANCE INSURANCE COMPANY

HEAD OFFICE, PHILADELPHIA, PENNSYLVANIA

## LABOR AND MATERIAL PAYMENT BOND

The American Institute of Architects, AIA Document A311, February 1970 Edition.

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: that (Here insert full name and address or legal title of Contractor)

LAND EXCAVATING, INC.  
P. O. Box 192  
LaOtto, IN 46763

as Principal, hereinafter called Principal, and, RELIANCE INSURANCE COMPANY, a corporation of the State of Pennsylvania, with its Head Office at Philadelphia, Pennsylvania, as Surety, hereinafter called Surety, are held and firmly bound unto (Here insert full name and address or legal title of Owner)

BOARD OF PUBLIC WORKS  
CITY OF FORT WAYNE

City-County Building, Fort Wayne, IN 46802

as Oblige, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of Twenty Two

Thousand Six Hundred & 37/100 . . . . . Dollars (\$ 22,600.37 ),

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated October 31, 1984, entered into a contract with Owner for Ley Road - Speedway Drive, 8 inch Watermain Contract 8408

in accordance with Drawings and Specifications prepared by (Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.



3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this 22nd day of October 1984.

LAND EXCAVATING, INC.

(Principal)

(Seal)

By: X

PRESIDENT

(Title)

RELIANCE INSURANCE COMPANY

By: X

Walter E. Manske

Attorney-in-fact



BILL NO. S-84-11-14

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN  
ORDINANCE approving Contract Number 8408, Ley Road - Speedway  
Drive Water Main Connection, by and between the City of Fort Wayne,  
Indiana and Land Excavating, Inc., in connection with the Board of  
Public Works and Safety

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

THOMAS C. HENRY, CHAIRMAN

MARK E. GIAQUINTA, VICE CHAIRMAN

CHARLES B. REDD

JAMES S. STIER

DONALD J. SCHMIDT

CONCURRED IN 11-27-84  
SANDRA E. KENNEDY, CITY CLERK



TITLE OF ORDINANCE Contract #8408 - Ley Road - Speedway Drive 8" Water Main Connection

DEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety *J-84-11-14*

SYNOPSIS OF ORDINANCE Contract #8408 - Ley Road - Speedway Drive 8" Water Main is for  
the furnishing of all material, labor, equipment, tools, power, transportation,  
miscellaneous equipment, etc., necessary to install a 12" water main to service the  
Ley Road - Speedway Drive 8" water main connection, Land Excavating, Inc.,  
Contractor.

EFFECT OF PASSAGE Improved water conditions at above location

EFFECT OF NON-PASSAGE \_\_\_\_\_

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$22,600.35

ASSIGNED TO COMMITTEE \_\_\_\_\_